



Linda S. Adams
Secretary for
Environmental Protection

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 9132

August 31, 2007

Ms. Beth Robey, Director
Department of Health and Human Services
Colusa County
251 E. Webster Street
Colusa, California 95932

Dear Ms. Robey:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Office of the State Fire Marshal, and Department of Toxic Substances Control conducted a program evaluation of the Colusa County Environmental Health Division's Certified Unified Program Agency (CUPA) on July 25, 2007 and August 7, 2007. The evaluation was comprised of an in-office program review. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, with preliminary corrective actions and timeframes, program observations and recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the Colusa County Environmental Health Division's CUPA program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agencies progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency progress report is due on November 5, 2007.

Cal/EPA also noted during this evaluation that the Colusa County Environmental Health Division's CUPA has worked to bring about a number of local program innovations, including: proactively seeking out additional businesses that should be regulated under the unified program and is developing an outstanding guide for the California Accidental Release Prevention (CalARP) program. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

cc: Mr. Rob Kostlivy, Director (Sent Via Email)
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Colusa, California 95932

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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: **Colusa County Environmental Health Department**

Evaluation Date: **July 25, 2007 and August 7, 2007**

EVALUATION TEAM

Cal/EPA: **JoAnn Jaschke**
DTSC: **Mickey Pierce**
OES: **Jack Harrah**
OSFM: **Francis Mateo**

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

| | <u>Deficiency</u> | <u>Preliminary Corrective Action</u> |
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| 1 | <p>The CUPA is not collecting enough fees from the regulated businesses to cover their expenses. According to the FY 05/06 self-audit, the CUPA collected \$17,157.65 in fees. Additionally, the CUPA receives \$60,000 from the Rural Reimbursement Account. According to the CUPA's FY 05/06 Rural Reimbursement Application, the unified program was budgeted at \$168,356.</p> <p>HSC requires the governing body of the CUPA to establish the single fee system at a level sufficient to pay the necessary and reasonable costs incurred by the CUPA in implementing the program.</p> <p>Cal/EPA has found that rural jurisdictions with business counts in the 300 range can maintain a satisfactory program if the overall revenue collected is in the \$400-\$500 range on average per business. This can support 1.5 to 2.0 FTE, which is typical of a successful smaller program.</p> <p>HSC, Sections 25404.5 (a) (2) and 25513 (Cal/EPA)</p> | <p>By November 5, 2007, the CUPA will review their fees to ensure the fee structure covers their expenses to achieve a stable program.</p> <p>By February 4, 2008, the CUPA shall explain how the CUPA will move their revised fee structure through the normal budgeting process in order to obtain the necessary approvals from the CUPA's governing body.</p> <p>By July 1, 2008, the CUPA will provide Cal/EPA with a copy of their FY 08/09 fee schedule.</p> |

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

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| 2 | <p>The CUPA is not citing violations in a manner consistent with the definition of Minor, Class II, and Class I as provided in statute and regulations. Inspection Report for ABA Energy Corporation indicated the facility had minor violations when the facilities actually had Class I violations.</p> <p>In the ABA Energy report a violation for illegal disposal of oil to the ground was noted as a minor violation.</p> <p>HSC, Section 25110.8.5 and 25117.6 Title 27, CCR, Section 15200(f)(2)(C) (Cal/EPA and DTSC)</p> | <p>DTSC provided the CUPA with training on properly classifying violations.</p> <p>Immediately, the CUPA shall begin properly classifying violations and taking formal enforcement against businesses as necessary.</p> <p>By November 5, 2007, the CUPA will begin taking formal enforcement against ABA Energy and Vintage Production California LLC.</p> <p>After November 5, 2007, the CUPA will provide Cal/EPA and DTSC with updates every 90 days on their progress towards achieving final settlement with ABA Energy and Vintage Production California LLC.</p> |
| 3 | <p>The CUPA has not documented how it expends at least 5% of its hazardous waste related resources to the oversight of universal waste handlers and silver only generators in their Inspection and Enforcement Plan.</p> <p>HSC, Section 25201.4(c) and CUPA forum board position (Cal/EPA and DTSC)</p> | <p>By January 25, 2008, the CUPA shall document how it expends at least 5% of its hazardous waste related resources to the oversight of Universal Waste handlers.</p> |
| 4 | <p>The CUPA did not have a CalARP dispute resolution procedure.</p> <p>Title 19 CCR 2780.1 (OES)</p> | <p>By October 25, 2007, the CUPA must develop and adopt a CalARP dispute resolution procedure that addresses all of the elements of T19 CCR 2780.1.</p> |
| 5 | <p>The CUPA has not met the required inspection frequency for business plan facilities.</p> <p>HSC, Section 25508(b) (OES)</p> | <p>By July 25, 2008, the CUPA must have a plan in place to ensure that each facility will be inspected at least every three years. This should include staffing issues and training.</p> |
| 6 | <p>The CUPA has not met the required inspection frequency for CalARP facilities.</p> <p>HSC, Section 25537(a) (OES)</p> | <p>By July 25, 2008, the CUPA must have inspected at least 1/3 of the CalARP facilities, and have a plan in place to ensure that each facility will</p> |

Certified Unified Program Agency (CUPA)
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| | | be inspected at least every three years. |
| 7 | <p>Although the CUPA has a good inventory of agricultural handlers, at this time, the CUPA is neither regulating farms under the business plan program, nor properly exempting them from the provisions of the business plan program.</p> <p>HSC, Sections 25503.5(a)(1) and 25503.5 (c)(2), (3), (4) and (5). (OES)</p> | <p>By July 25, 2008, the CUPA must develop an action plan to either regulate agricultural handlers under the business plan program, or to properly apply one or more of the available exemptions.</p> |

CUPA Representative

Robert Kostlivy

(Print Name)

Original signed

(Signature)

Evaluation Team Leader

JoAnn Jaschke

(Print Name)

Original signed

(Signature)

Certified Unified Program Agency (CUPA)
Evaluation Summary of Findings

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA has never had an area plan. Under a grant from the Department of Transportation's Hazardous Materials Emergency Planning program, a draft area plan is under development. This draft is tentatively scheduled for presentation to the Colusa County Board of Supervisors on August 21, 2007.

Recommendation: None, but see below.

2. **Observation:** The CUPA's draft area plan does not include a reporting form, as required by Title 19, section 2720(c).

Recommendation: Such a form should be developed and included with the draft area plan that goes before the Board of Supervisors. OES left a sample form in electronic format at the time of the evaluation.

3. **Observation:** The CUPA's draft area plan, in its 7-25-2007 edition, does not address all of the elements required by Title 19, sections 2722-2728. Specifically, the OES evaluator was unable to find the following:

- Section 2722 – Equipment Monitoring and Decontamination.
- Section 2723 – Planning and Coordination.
- Section 2723 – Disposal Facility Access.
- Section 2723 – Emergency Response Contractor Access.
- Section 2724 – Emergency Communications.
- Section 2724 – OES Notification.
- Section 2725 – Training Documentation.
- Section 2725 – Training Exercises.
- Section 2726 - Site Perimeter Security.
- Section 2726 - Safety Procedure Information.
- Section 2726 - Information Release Responsibility
- Section 2726 - Medical Notification.
- Section 2727 - Testing and Maintenance.
- Section 2728 - Incident Critique and Follow-up.

Recommendation: The above elements must be addressed in the area plan before the final signoff by OES on the HMEP grant.

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- 4. Observation:** The CUPA sends copies of business plans to the six fire departments located in Colusa County but does not meet with them to discuss issues concerning the unified program in terms of consistency and coordination.

Recommendation: In order to ensure a consistent and well coordinated county wide program, the CUPA should actively participate in fire agency meetings or initiate and call for meetings with these agencies and present for discussion issues that arise in implementing the unified programs. Additionally, regular meetings allow for determining the needs of each agency and identify resources that each could be able to share or use.

- 5. Observation:** The CUPA has a well organized Business Plan filing and record keeping system; however, some of the files are not complete.

Recommendation: The CUPA recently took over the program from County OES/Sheriff's Department and the CUPA is making a diligent effort to complete the files. Additionally, the tremendous increase in number of businesses in the county vs. the number of inspectors has placed a burden in their workload.

- 6. Observation:** During the file review, some of the business plan files were not properly filled, specifically, the Chemical inventory form. For example, sections like the Fire Code Hazard Class, the Hazardous Material physical state, average & maximum daily amounts and the units of measure.

Recommendation: The CUPA, upon receipt of the Business Plans forms from the regulated businesses, should review the Hazardous Material Inventory forms, for correct information and completeness. Additionally, the CUPA should contact the respective businesses to make the necessary changes.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

- 1.** The CUPA has been very proactive in seeking out additional businesses that should be regulated under the unified program. According to the FY 04/05 annual summary report 2, the CUPA had 78 total regulated businesses. During the evaluation, the CUPA indicated their total number of regulated businesses was 287.
- 2.** The CUPA's "Guidance for Risk Management Plan for CalARP Program" is outstanding although incomplete. The information included is well written, thorough, and easy to understand.